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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/084,008	02/27/2002	Charles Crosby	PC-1204	6689

7590

11/05/2003

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EXAMINER

SHAY, DAVID M

ART UNIT PAPER NUMBER

3739

DATE MAILED: 11/05/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/084,008

Applicant(s)

Crosby

Examiner

J. Shy

Group Art Unit

3739

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on February 27, 2003.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-25 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-25 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____.
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) _____
- ☐ Interview Summary, PTO-413
- ☒ Notice of References Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

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The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 15 ad 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 15 is indefinite because it depends from itself. For the purposes of examination the claim will be treated as depending from claim 14. Claim 25 is indefinite because how the “amplifying and diffusing” of the pulses occurs is unclear.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5 and 13 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Murphy.

Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murphy in view of the Tens-Cam device. Murphy teaches a device such as claimed except the particular frequencies and the mention of a specific power supply. The Tens-Cam teaches the particular frequencies, power supplies, and treatment times and distances claimed. It would have been obvious to use the Tens Cam as the radiation source of Murphy, since Murphy teaches that any suitable source may be used, thus producing a device such as claimed.

Claims 17-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murphy in combination with Tens Cam. The teachings of Murphy and Tens Cam and the motivations for


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combination thereof are essentially those already set forth above. Thus it would have been obvious to the artisan of ordinary skill to combine these old and well known teachings to produce a method such as claimed.

It is noted that applicant discusses the sale and use of Tens Cam devices in the paragraph bridging pages 1 and 2 of the instant disclosure. It is further noted that the publication concerning the Tens Cam filed with the Information Disclosure Statement filed February 27, 2003 is marked "REVISION" 9/15/01". The examiner requests applicant to furnish the earliest date that the Tens Cam was offered for sale; the earliest date of the use of Tens Cam; and copies of any and all publications that REVISION 9/15/01 is a revision of or any other publication describing the Tens Cam and their publication dates.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Talass teaches that glass is silicon dioxide.

Any inquiry concerning this communication should be directed to David Shay at telephone number 308-2215.



DAVID M. SHAY
PRIMARY EXAMINER
GROUP 330

Shay/DL

October 8, 2003